

BEFORE THE
POSTAL REGULATORY COMMISSION

PERIODIC REPORTING
(PROPOSAL THREE)

: Docket No. RM2016-11
:
:

UNITED PARCEL SERVICE, INC.'S MOTION FOR ACCESS
(September 23, 2016)

United Parcel Service, Inc. ("UPS") respectfully submits this Motion for Access pursuant to Commission Rules 3007.21 and 3007.40, requesting access for its outside counsel and consultants to a non-public library reference (USPS-RM2016-11/NP1), which the United States Postal Service ("Postal Service") filed with the Commission on August 22, 2016, as part of the Postal Service's Proposal relating to proposed change to the In-Office Cost System ("IOCS") methodology for sampling city carriers for in-office costs. Additionally, UPS requests access to an additional non-public library reference (USPS-RM2016-11/NP2) filed by the Postal Service in response to Chairman's Information Request No. 1.

UPS seeks access to these library references for its outside counsel and consultants to assist it in making informed comments regarding Proposal Three. See PRC Dkt. No. RM2016-11, Order No. 3489 ("Order No. 3489") (August 26, 2016) (inviting comments). These outside counsel and consultants are identified in Exhibit 1, attached hereto, and each has executed a copy of the Commission's standard protective order conditions.

In determining whether to grant access to non-public data, the Commission “shall balance the interests of the parties based on Federal Rule of Civil Procedure 26(c).” 39 C.F.R. § 3007.42. UPS’s request clearly satisfies this test. The requested non-public library reference is directly relevant to Proposal Three, and UPS has a substantial interest in this proposal.

The Commission has initiated a rulemaking proceeding to consider changes to the IOCS methodology for sampling city carriers for in-office costs. See Order No. 3489. Specifically, the Postal Service states that the Proposal Three utilizes census data from the Time and Attendance Collection System (TACS) and the Delivery Operations Information System (DOIS) to develop a new cluster sampling approach. See Petition Of The United States Postal Service For The Initiation Of A Proceeding To Consider Proposed Changes In Analytical Principles (“Proposal Three”) at 1, Dkt. No. RM2016-11 (Aug. 22, 2016). This new sampling approach would permit data collectors to take on-site readings in the mornings when city carriers conduct the majority of their in-office work. *Id.* The Postal Service states that the availability of TACS census data provides the opportunity to significantly reshape the sampling design. *Id.* at 2. The Postal Service states that the primary objective of this proposal is to replace the current method of obtaining data via telephone readings with on-site readings. *Id.* at 15.

In support of its Petition, the Postal Service has attached a public library reference, USPS–RM2016–11/1, and a non-public library reference, USPS– RM2016–11/NP1. Access to the non-public library reference is necessary to evaluate the extent to which Proposal Three impacts costs attributed to individual competitive products. Presently, there is no publically available information contained in Proposal Three that

would allow UPS's outside counsel and consultants (or any other commenter) to evaluate those impacts.

Additionally, on September 9, 2016, the Commission issued Chairman's Information Request No. 1 requesting extensive information in order "[t]o clarify the Postal Service's petition" Chairman's Information Request No. 1, Dkt. No. RM2016-11 (Sept. 9, 2016). In response thereto, the Postal Service submitted additional non-public information that will further assist UPS's outside counsel and consultants in evaluating the extent to which Proposal Three impacts individual competitive products. See Responses Of The United States Postal Service To Questions 1-8, 11-13, 15, 18. A-C, And 21 Of Chairman's Information Request No. 1, Dkt. No. RM2016-11 (Sept. 16, 2016).

Accordingly, UPS respectfully requests that its outside counsel and consultants listed in Exhibit 1 be provided access to the non-public data filed by the Postal Service in USPS-RM-2016-11/NP1 and USPS-RM-2016-11/NP2.

Respectfully submitted,

UNITED PARCEL SERVICE, INC.,

By: /s/ Steig D. Olson
Steig D. Olson
Quinn Emanuel Urquhart & Sullivan, LLP
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New York, NY 10010
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Attorney for UPS

Exhibit 1

1. Steig Olson
2. David LeRay
3. Scott Lerner
4. Michael Gulston
5. Kevin Neels
6. Nicholas Powers
7. Sarah Germain
8. Angela Lam
9. Jacob Light
10. Andrew Sutton
11. Nathan Basch

Exhibit 2

STATEMENT OF COMPLIANCE WITH PROTECTIVE CONDITIONS

The Postal Service (or a third party) has filed non-public materials identified as USPS-RM2016-11/NP1 and USPS-RM2016-11/NP2 in Commission Docket No. RM2016-11. The Postal Service (or a third party) requests confidential treatment of the materials (hereinafter “these materials”).

The following protective conditions limit access to a specific subset of the materials identified as USPS-RM2016-11/NP1 and USPS-RM2016-11/NP2 by the Postal Service (or third party). Each person seeking to obtain access to these materials must agree to comply with these conditions, complete the attached certifications, and provide the completed certifications to the Commission and counsel for the Postal Service.


1. Access to these materials is limited to a person as defined in rule 5(f), 39 CFR 3001.5(f), or an individual employed by such person, or acting as agent, consultant, contractor, affiliated person, or other representative of such person for purposes related to the matter identified as USPS-RM2016-11/NP1 and USPS-RM2016-11/NP2. However, no person involved in competitive decision-making for any entity that might gain competitive advantage from use of this information shall be granted access to these materials. “Involved in competitive decision-making” includes consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having a proprietary interest in the protected material.
2. No person granted access to these materials is permitted to disseminate them in whole or in part to any person not authorized to obtain access under these conditions.
3. Immediately after access has terminated under rule 39 CFR 3007.41 or 3007.51, a person (and any individual working on behalf of that person) who has obtained a copy of these materials shall certify to the Commission:
 - (a) That the copy was maintained in accordance with these conditions (or others established by the Commission); and
 - (b) That the copy (and any duplicates) either have been destroyed or returned to the Commission.
4. The duties of each person obtaining access to these materials shall apply to material disclosed or duplicated in writing, orally, electronically, or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of excerpts from or parts of the document, as well as to the entire document.

5. All persons who obtain access to these materials are required to protect the document by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the document as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material or trade secrets and other internal, confidential, commercially sensitive, and privileged information.
6. These conditions shall apply to any revised, amended, or supplemental versions of these materials provided in the matter identified as USPS-RM2016-11/NP1 and USPS-RM2016-11/NP2.
7. The duty of nondisclosure of each person obtaining access to these materials is continuing, terminable only by specific order of the Commission, or as specified in paragraphs 9 and 10, below.
8. Each person granted access to these materials consents to these or such other conditions as the Commission may approve.
9. Any written materials that quote or contain materials protected under these protective conditions are also covered by the same protective conditions and certification requirements, and shall be filed with the Commission only under seal. Documents submitted to the Commission as confidential shall remain sealed while in the Secretary's office or such other place as the Commission may designate so long as they retain their status as stamped confidential documents.
10. If a court or other administrative agency subpoenas or orders production of confidential information which a person has obtained under the terms of this protective order, the target of the subpoena or order shall promptly (within 2 business days) notify the Postal Service of the pendency of the subpoena or order to allow it time to object to that production or seek a protective order.

CERTIFICATION

The undersigned represents that:


Access to these materials provided in the matter identified as Commission Docket No. RM2016-11 (USPS-RM2016-11/NP1 & USPS-RM2016-11/NP2) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as Commission Docket No. RM2016-11 (USPS-RM2016-11/NP1 & USPS-RM2016-11/NP2). I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Steig Olson</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Partner</u>
Representing	<u>United Parcel Service</u>
Signature	
Date	<u>9-23-16</u>

CERTIFICATION

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Name	<u>David LeRay</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Associate</u>
Representing	<u>United Parcel Service</u>
Signature	
Date	<u>9-23-16</u>

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Name	<u>Scott Lerner</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>9-23-16</u>

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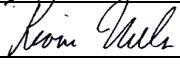
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Name	<u>Michael Gulston</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Paralegal</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>9-23-16</u>

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Name	<u>Kevin Neels</u>
Firm	<u>The Brattle Group</u>
Title	<u>Principal</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>9-23-16</u>

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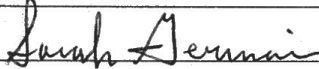
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Name	<u>Nicholas E. Powers</u>
Firm	<u>The Brattle Group</u>
Title	<u>Senior Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>9-23-16</u>

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Name	<u>Sarah Germain</u>
Firm	<u>The Brattle Group</u>
Title	<u>Research Analyst</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>9-23-16</u>

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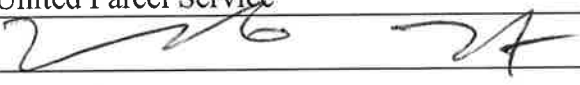
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Name	<u>Angela Lam</u>
Firm	<u>The Brattle Group</u>
Title	<u>Research Analyst</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>9-23-16</u>

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Name	<u>Jacob Light</u>
Firm	<u>The Brattle Group</u>
Title	<u>Research Analyst</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>9-23-16</u>

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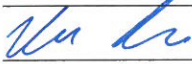
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Name	<u>Andrew Sutton</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>9-23-16</u>

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Name	<u>Nathan Basch</u>
Firm	<u>The Brattle Group</u>
Title	<u>Research Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>9-23-16</u>